

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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9 SEPTEMBER 18, 2001

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12 APPEARANCES:

13 MASON BRENT, GAS & OIL INDUSTRY REPRESENTATIVE

14 MAX LEWIS, PUBLIC MEMBER

15 BENNY WAMPLER, DIRECTOR OF THE DMME & CHAIRMAN

16 CLYDE KING, PUBLIC MEMBER

17 SANDRA RIGGS, ASSISTANT ATTORNEY GENERAL

18 BOB WILSON, DIRECTOR OF THE DIVISION OF GAS & OIL AND ACTING

19 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

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****AGENDA ATTACHED

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3 BENNY WAMPLER: Good morning, my name is Benny
4 Wampler. I'm Deputy Director for the Department of Mines,
5 Minerals and Energy, and Chairman of the Gas & Oil Board.
6 I'll ask the Board members to introduce themselves starting
7 with Mr. Brent.

8 MASON BRENT: My name is Mason Brent. I'm from
9 Richmond and I represent the Gas and Oil Industry.

10 MAX LEWIS: My name's Max Lewis. I'm from Buchanan
11 County, a public member.

12 SANDRA RIGGS: I'm Sandra Riggs with the Office of
13 the Attorney General and I am here to advise the Board.

14 CLYDE KING: I am Clyde King from Abingdon, a public
15 member.

16 BOB WILSON: I'm Bob Wilson. I'm the Director of
17 the Division of Gas and Oil and the principal executive to
18 the staff of the Board.

19 BENNY WAMPLER: Thank you. Before we actually get
20 into the docket, I'd just like to call for a moment of
21 silence in remembrance of the people that were killed and the
22 families of those that were killed by the terrorists.

23 (A moment of silence.)

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1 BENNY WAMPLER: Thank you. The first item on the
2 agenda today, the Board will consider a petition from Consol,
3 Incorporated for dismissal of certain respondents that have
4 been pooled, disbursements from escrow regarding tracts 1, 2,
5 3 and 4. This is docket number VGOB-91-06/17-0133 and 93-
6 04/20-0353. We'd ask the parties that wish to address the
7 Board in this matter to come forward at this time.

8 MARK SWARTZ: Mark Swartz and Anita Tester. Anita
9 has prepared two spreadsheets because for some reason or
10 another there was...briefly there were two accounts that were
11 receiving funds. As you can see, the first one received some
12 payments, two payments in '97 and a payment in '98, and then
13 basically we're just looking at interest and costs since
14 then. But in any event, she's got these two spreadsheets and
15 I will let her explain to you what...what she was able to do
16 here and what needs to happen in terms of disbursements.

17 ANITA TESTER: Okay, first of all, I gathered the
18 information from Buchanan Production that have allocations
19 for each tract and then just compared it to the ledger sheets
20 from First Virginia and then for the remaining...from First
21 Union and everything balances.

22 MARK SWARTZ: Okay, and the tracts that we need to
23 disburse from are which tracts.

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1 ANITA TESTER: 1, 2, 3 and 4, and then on the
2 second account only 3 and 4...tracts 3 and 4 there.

3 MARK SWARTZ: And the last amounts that you've
4 reported as of July, 2001 would be the amounts that the
5 escrow agent should be directed to disburse immediately.

6 ANITA TESTER: Yes.

7 MARK SWARTZ: And then you also would require, or
8 would ask, that the Board enter an Order providing that in
9 the future when royalty payments are made that they be made
10 directly?

11 ANITA TESTER: Yes.

12 MARK SWARTZ: So, the people that we need to
13 dismiss would be whom?

14 ANITA TESTER: Landon Wyatt and Island Creek Coal
15 Company and Landon Wyatt and several Morgan heirs. There's
16 two remaining that haven't signed an agreement, but the rest
17 of them will.

18 MARK SWARTZ: Is there anything you want to add
19 with regard to U-10?

20 ANITA TESTER: There may be some...we may need to
21 do some other kind of calculation for the two Morgan heirs
22 that are remaining because of the entire amount won't be out,
23 so that account will still have tract 4 showing in there.

24

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1 The two remaining heirs will still have their money remaining
2 in escrow.

3 MARK SWARTZ: So, there will be a little portion of
4 tract 4, which looks like it has got about \$60 in the two
5 accounts?

6 ANITA TESTER: Uh-huh.

7 MARK SWARTZ: And will you provide Sandra Riggs or
8 Bob Wilson with that calculation so they know?

9 ANITA TESTER: Yes.

10 MARK SWARTZ: And we need...we probably need to
11 swear the witness. We're trying to sneak this one by you
12 all, but---.

13 (Everyone laughs.)

14 (Anita Tester is duly sworn.)

15 MARK SWARTZ: If you had been under oath from the
16 beginning, including when you gave us your name, okay, would
17 your answers have been the same?

18 ANITA TESTER: Yes.

19 MARK SWARTZ: Okay. Any questions?

20 BENNY WAMPLER: Questions from members of the
21 Board?

22 (No audible response.)

23 BENNY WAMPLER: I guess one thing I have is just to
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1 have you, if you know at this point in time, what amount
2 you're actually asking to be disbursed? Do you have to
3 recalculate that or is it actually the bottom figure that
4 we're looking at on here on 1, 2, 3 and 4?

5 MARK SWARTZ: On 1, 2 and 3---?

6 BENNY WAMPLER: The marginal notes.

7 MARK SWARTZ: 1, 2 and 3 it is the number.

8 BENNY WAMPLER: It is?

9 MARK SWARTZ: Correct. And the only outstanding
10 issue, if the two Morgan heirs do not sign the split
11 agreement---.

12 ANITA TESTER: Right, which they didn't.

13 MARK SWARTZ: Which they did not. She's going to
14 have to---.

15 BENNY WAMPLER: Refigure that?

16 MARK SWARTZ: ---refigure.

17 BENNY WAMPLER: Because you'll have an amount left
18 in escrow then.

19 ANITA TESTER: Well, that's what is in there at
20 this point. But I can send you a memo or something to tell
21 you exactly who---.

22 SANDRA RIGGS: A breakdown?

23 ANITA TESTER: Yeah.

24

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1 SANDRA RIGGS: Okay.

2 ANITA TESTER: What portion goes to what person.

3 MARK SWARTZ: But the numbers on the chart, to

4 answer your question specifically, Mr. Chairman, are with

5 regard to tracts 1, 2 and 3, the bottom line numbers are the

6 numbers that we're seeking to have disbursed and we'll give

7 you an allocation with regard to tract 4.

8 BENNY WAMPLER: Any other questions from members of

9 the Board?

10 (No audible response.)

11 BENNY WAMPLER: Do you have anything further?

12 MARK SWARTZ: No.

13 BENNY WAMPLER: Do we have a motion?

14 CLYDE KING: I move...so move.

15 BENNY WAMPLER: A motion for approval.

16 MASON BRENT: I second the motion.

17 BENNY WAMPLER: Motion and second. Any further

18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying

21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval. The next item
3 on the agenda is a petition from Pocahontas Gas Partnership
4 for dismissal of certain respondents that have been
5 previously pooled, disbursements from escrow regarding tract
6 2, an authorization for direct payment of royalties for
7 coalbed methane unit identified as P-46 previously pooled
8 under docket 99-05/18-0722; and we'd ask the parties that
9 wish to address the Board in this matter to come forward at
10 this time.

11 MARK SWARTZ: Mark Swartz and Anita Tester on
12 behalf of Pocahontas Gas Partnership. Anita, I'll just
13 remind you you're still under oath, okay? What we're talking
14 about here, we have a royalty split agreement between RCP and
15 Mr. Clyborne and we've seen him before and the amount that
16 we're requesting be disbursed with regard to tract 2 with
17 reference to that split agreement is \$5,532.45. In the last
18 column, you'll see that there is a note there to be returned
19 \$93.02. There's an internal dispute between Consol companies
20 with regard to their entitlement to the Pocahontas Three Seam
21 allocation, and this money should never have been sent to
22 escrow in the first place. We're asking that it be returned
23 when you do the disbursement. It will be a separate check.

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1 But that it would go back to Pocahontas Gas Partnership and
2 that they can sort it out with their sister companies.

3 And, Anita, with regard to what accounting work
4 you've done here and how your accounting compares to the
5 banks, why don't you tell the Board what you did and
6 how...what the outcome was?

7 ANITA TESTER: Okay, I acquired the information
8 from Conoco showing the money that had been sent to escrow
9 and compared it to the deposits that First Union showed and
10 added the net income and our balances and the bank balances
11 match.

12 SANDRA RIGGS: So, after the money is returned and
13 disbursed, the account can be closed in this one? There will
14 no further need for---?

15 ANITA TESTER: Yes.

16 SANDRA RIGGS: ---escrow?

17 MARK SWARTZ: Correct.

18 BENNY WAMPLER: Questions from members of the
19 Board?

20 MARK SWARTZ: Now, the split agreement, Les, is
21 50/50 with Mr. Clyborne, right?

22 LESLIE K. ARRINGTON: Yes, it is.

23 MARK SWARTZ: Okay, so, that will be a 50/50 split.

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1 With regard to tract 5, you just pay the money back to the
2 operator.

3 BENNY WAMPLER: So, when we have the hearing, and
4 I'm just going back and looking at the order, and you've got
5 reserved coal properties, which is your RCP footnote---?

6 MARK SWARTZ: Right.

7 BENNY WAMPLER: ---here and the Southern Regional
8 Industrial Realty, Incorporated, they should have never been
9 pooled to begin with?

10 MARK SWARTZ: Correct.

11 BENNY WAMPLER: Is that what you're saying?

12 MARK SWARTZ: Right. We should not have escrowed
13 their money.

14 BENNY WAMPLER: You should not have escrowed their
15 money?

16 MARK SWARTZ: We had an agreement with them from
17 day one---.

18 BENNY WAMPLER: Okay.

19 MARK SWARTZ: ---and they just need to work out who
20 gets it...who gets the money.

21 BENNY WAMPLER: Any questions from members of the
22 Board?

23 (No audible response.)
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1 BENNY WAMPLER: Do you have anything further?
2 MARK SWARTZ: Not on this one.
3 SANDRA RIGGS: The check, though, would go back to
4 PGP---?
5 MARK SWARTZ: On tract 5.
6 SANDRA RIGGS: ---for their disbursement?
7 MARK SWARTZ: Correct. Just return it to the
8 operator.
9 (Board members confer among themselves.)
10 BENNY WAMPLER: Mr. Swartz, are you, for the
11 record, I'm just asking whether I need to have someone else
12 to testify. Are you testifying on behalf of the unit
13 operator regarding tract 5?
14 MARK SWARTZ: Mr. Arrington probably needs to be
15 sworn. Do you want to raise your hand?
16 (Witness is duly sworn.)
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21 LESLIE K. ARRINGTON
22 having been duly sworn, was examined and testified as
23 follows:
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DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. State your name, please, loudly.

A. Leslie K. Arrington.

Q. Would you explain to the Board what the situation is with Reserve Coal Properties and Southern Region?

A. Yes. In the original lease agreements and other documents, Reserve Coal Properties actually owns the Pocahontas Number Three Seam and Southern Region owns the oil, gas and all other coals. And it turned out the way we drafted those documents that we have just an internal conflict between ourselves in that lease of who gets the royalties to the Pocahontas Number Three Seam. So, you know, it's just a matter of one another saying, okay, you get this money, and we haven't done that yet.

Q. Is it your testimony, though, that the claim to the money from the Pocahontas Three Seam is essentially between Consol Energy, Inc. affiliates?

A. It is going to be between our lessor and us. I mean, it was the way our lease was drafted is what has happened here. We own the Three Seam and they own everything else, but the lease itself gave them ownership of some of the

1 Pocahontas Number Three Seam gas. So, it's an internal lease
2 document.

3 BENNY WAMPLER: Is it your testimony then that
4 the...or request on behalf of PGP that the money come back to
5 the unit operator for further disbursement?

6 LESLIE K. ARRINGTON: It is. Yes, it is. This
7 would be probably one of the only units that we've done like
8 that. We shouldn't have done that.

9 BENNY WAMPLER: Anything further from members of
10 the Board?

11 (No audible response.)

12 BENNY WAMPLER: Is there a motion?

13 CLYDE KING: So move.

14 BENNY WAMPLER: Motion for approval.

15 MASON BRENT: I second.

16 BENNY WAMPLER: A second. Any further discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying
19 yes.

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item
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1 on the agenda is a petition from Pocahontas Gas Partnership
2 for dismissal of certain respondents that have been
3 previously pool, disbursements from escrow regarding tracts 4
4 and 5 and authorization for direct payment of royalties for
5 coalbed methane unit identified as N-46, previously pooled as
6 docket number VGOB-98-12/15-0701-01. We'd ask the parties
7 that wish to address the Board in this matter to come forward
8 at this time.

9 MARK SWARTZ: Mark Swartz and Anita Tester, again,
10 on behalf of Pocahontas Gas Partnership. As you can see from
11 the spreadsheet you've just received, we're talking about two
12 tracts. We have a split agreement between...again between
13 reserved coal properties and Mr. Clyborne involving those two
14 tracts. Anita, I'll just remind you've under oath still.
15 Why don't you tell the Board what you did and how this money
16 should be divided.

17 ANITA TESTER: Okay, as with the other accounts, I
18 gathered the information from Conoco...well, Conoco, and
19 compared the information with bank ledgers from First Union
20 and both balances match and out of tract 4, there should
21 \$679.20 for each party and then tract 5, \$1,095.85 for each
22 party and then there should be no further escrow after these
23 accounts are paid.

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1 MARK SWARTZ: And I take it then that the split
2 agreement between Mr. Clyborne and Reserve Coal Properties is
3 a 50/50 agreement?

4 ANITA TESTER: Yes.

5 MARK SWARTZ: That's all I have.

6 BENNY WAMPLER: Any questions from members of the
7 Board?

8 BOB WILSON: Excuse me, Mr. Chairman. Did you say
9 that this would close the escrow account?

10 ANITA TESTER: Yeah.

11 BENNY WAMPLER: Is there a motion for approval?

12 MASON BRENT: So moved.

13 MAX LEWIS: I make a motion we approve.

14 BENNY WAMPLER: A motion and second.

15 MAX LEWIS: Second.

16 BENNY WAMPLER: Any further discussion?

17 (No audible response.)

18 BENNY WAMPLER: All in favor, signify by saying
19 yes.

20 (All members signify by saying yes.)

21 BENNY WAMPLER: Opposed, say no.

22 (No audible response.)

23 BENNY WAMPLER: You have approval. The next item
24

1 on the agenda is a petition from Pocahontas Gas Partnership
2 for dismissal of certain respondents that have been
3 previously pooled, disbursements from escrow regarding tracts
4 4 and authorization for direct payment of royalties for
5 coalbed methane unit identified as R-37, and previously
6 pooled as docket number VGOB-99-07/20-0764. We'd ask the
7 parties that wish to address the Board in this matter to come
8 forward at this time.

9 MARK SWARTZ: Again, Mark Swartz and Anita Tester.
10 Anita, I'll remind you're still under oath. Did you obtain
11 the royalty check payment detail from Conoco here?

12 ANITA TESTER: Yes.

13 MARK SWARTZ: Did you also get copies of the bank
14 ledgers?

15 ANITA TESTER: Yes.

16 MARK SWARTZ: How did they compare?

17 ANITA TESTER: Everything matched.

18 MARK SWARTZ: Okay. And what are you asking the
19 Board to do here?

20 ANITA TESTER: Well, there's only one tract in
21 escrow for this account. So, the money that's in there
22 should be split 50/50 between RCP and Clyborne.

23 MARK SWARTZ: And you're reporting that amount...

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1 the 100% and the 50/50 amount on the spreadsheet, right?

2 ANITA TESTER: Uh-huh.

3 MARK SWARTZ: And so the escrow account could be
4 closed after this disbursement?

5 ANITA TESTER: Yes.

6 MARK SWARTZ: And I take, again, that the
7 agreement...the split agreement between Reserve Coal
8 Properties and Mr. Clyborne is a 50/50 agreement?

9 ANITA TESTER: Yes.

10 MARK SWARTZ: That's all I have.

11 ANITA TESTER: I just noticed I have an error on
12 here. It should be split the balance and not the payments.
13 I'm sorry.

14 MASON BRENT: I was wondering.

15 SANDRA RIGGS: It's the \$2,673.04 that should be
16 split 50/50?

17 MARK SWARTZ: Right.

18 ANITA TESTER: Right. I have...yeah, I just
19 noticed that I put that in the wrong place.

20 BENNY WAMPLER: Okay. Any questions from members
21 of the Board?

22 (No audible response.)

23 BENNY WAMPLER: Do you have anything further, Mr.
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1 Swartz?

2 MARK SWARTZ: No.

3 BENNY WAMPLER: Is there a motion for approval?

4 MAX LEWIS: I make a motion we approve it.

5 BENNY WAMPLER: Is there a second?

6 MASON BRENT: I second.

7 BENNY WAMPLER: Motion and second. Any further
8 discussion?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying
11 yes.

12 (All members signify by saying yes.)

13 BENNY WAMPLER: Opposed, say no.

14 (No audible response.)

15 BENNY WAMPLER: You have approval. Mr. Swartz, you
16 previously requested a continuance for item number five,
17 which is docket number VGOB-92-03/17-0195?

18 MARK SWARTZ: Yes, sir.

19 BENNY WAMPLER: Unless there's an objection of the
20 Board, that matter will be continued until the October
21 docket. The next item on the agenda is a petition from
22 Pocahontas Gas Partnership for pooling of a coalbed methane
23 unit under the Middle Ridge I Coalbed Methane Gas Field order
24

1 identified as AX-116, located in the New Garden District,
2 docket number VGOB-01-09/18-0920. We'd ask the parties that
3 wish to address the Board in this matter to come forward at
4 this time.

5 MARK SWARTZ: Mark Swartz and Les Arrington on
6 behalf of Pocahontas Gas Partnership.

7 (Mr. Arrington distributes exhibits.)

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13 LESLIE K. ARRINGTON

14 having been duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. SWARTZ:

18 Q. Mr. Arrington, I'll remind you that you're
19 still under oath.

20 A. Okay. Yes.

21 Q. Okay. You need to state your name for us.

22 A. Leslie K. Arrington.

23 Q. Who do you work for?

24

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1 A. Consol Energy.

2 Q. What do you do for them?

3 A. I'm a gas engineer, drafting the well

4 permits, pooling applications.

5 Q. Okay, did you either yourself prepare, or

6 cause to be prepared by people who work for you and with you,

7 the application, notice of hearing and related exhibits with

8 regard to the pooling application concerning AX-116?

9 A. Yes, I did.

10 Q. Okay. And, in fact, you actually signed the

11 notice of hearing and the application, is that true?

12 A. That's correct.

13 Q. Okay. The applicant here is Pocahontas Gas

14 Partnership?

15 A. That's correct.

16 (Anita Tester confers with Mr. Arrington.)

17 Q. The applicant here is Pocahontas Gas

18 Partnership?

19 A. It is.

20 Q. Okay. And in addition, is the applicant

21 requesting that Pocahontas Gas Partnership be appointed the

22 Board's operator if the pooling application is approved?

23 A. Yes, we are.

24

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1 Q. Okay. Pocahontas Gas Partnership is a
2 Virginia General Partnership, is that correct?

3 A. It is.

4 Q. And does that partnership have two partners
5 who are Consolidation Coal Company and Conoco, Inc.?

6 A. Yes, it does.

7 Q. Is Pocahontas Gas Partnership authorized to
8 do business in the Commonwealth?

9 A. Yes, it is.

10 Q. Has it registered with the Department of
11 Mines, Minerals and Energy and does it have a blanket bond on
12 file?

13 A. Yes, it does.

14 Q. Okay. Have you listed all of the
15 respondents that you're seeking to pool in both the notice of
16 hearing and in Exhibit B-3 to the application?

17 A. Yes, we have.

18 Q. Okay. It looks like you had addresses for
19 everyone except one person, correct?

20 A. That's correct.

21 Q. Okay. Tell the Board what you did in terms
22 of mailing.

23 A. We mailed by Certified Mail/Return Receipt
24

1 requested on August the 17th of 2001, and we published it in
2 the Bluefield Daily Telegraph on August the 21st, 2001.

3 Q. Okay. And did you file with the Board today
4 the certificate of publication from the newspaper and a copy
5 of what was published as well as you proof of mailing?

6 A. Yes, we did.

7 Q. Okay. And with regard to Charley Whited
8 ...or Whited, however you pronounce that, the address
9 unknown, you attempted to notify him by a publication,
10 correct?

11 A. We did. That's correct.

12 Q. Do you wish to add anybody as a respondent
13 today?

14 A. No we do not.

15 Q. Do you wish to dismiss anybody?

16 A. No.

17 Q. Now, if you look at A, page two...Exhibit A,
18 page two to the application---?

19 A. Uh-huh.

20 Q. ---could you tell the Board what interest
21 you've acquired, the applicant has acquired, and what
22 interest this application seeks to pool?

23 A. Yes. We have acquired 99.964% of the oil
24

1 and gas owners, 100% of the coal owner for the coalbed
2 methane, and we're seeking to pool 0.036% of the oil and gas
3 owners's coalbed methane interest.

4 Q. Okay. Now, if you just flip to the next
5 page, which is Exhibit B-3, for each person that you're
6 seeking to pool, have you listed their specific percentage
7 interest in this unit?

8 A. Yes, we have.

9 Q. Okay. And this is a Middle Ridge unit, is
10 that correct?

11 A. It is.

12 Q. And you're contemplating that you're going
13 to have one well?

14 A. That's correct.

15 Q. And if we look at the plat, that well is
16 actually shown on the plat, correct?

17 A. It is.

18 Q. And how many acres are in this unit?

19 A. It should be 58.7. 58.7.

20 Q. Okay. And the plat that was filed, do we
21 need to modify that slightly?

22 A. We do to say Middle Ridge instead of
23 Oakwood.

24

--

1 Q. Okay. So, under Exhibit A, it was
2 identified as an Oakwood Field unit and it's actually a
3 Middle Ridge unit?

4 A. It is.

5 Q. Okay. And will you see that...make sure
6 that a modified legend plat gets to Ms. Riggs?

7 A. We will.

8 Q. With the information with regard to the well
9 in this unit, it looks like it has been drilled, is that
10 correct?

11 A. It has.

12 Q. Why don't you tell the Board about that.

13 A. Okay, it was drilled on January the 17th of
14 2001, to a total depth of 2,354 feet. My Exhibit C shows the
15 cost being \$205,523.49. We've revised that and that cost is
16 going to be \$5,000 less because my Exhibits have some math
17 errors in it that we caught. So, there's a \$5,000 error.
18 So, the actual cost is \$200,523.49, and I will submit a
19 revised Exhibit C.

20 Q. Now, I noticed that you're not wearing
21 reading your reading glasses again today---.

22 A. Right.

23 Q. ---and you're having trouble with the fine
24

1 print here. The date that the Exhibit C reports this well
2 was drilled is January the 1st or January the 17th, 2001.

3 A. Right.

4 Q. I think you said September.

5 A. Okay.

6 Q. Okay. And what's the permit number?

7 A. Permit number is 4733.

8 Q. Okay. Good.

9 A. Yeah.

10 Q. Is there...this well is shown on the plat is
11 within the drilling unit, is that correct?

12 A. It is. Uh-huh.

13 Q. So, you don't need an exception?

14 A. Correct.

15 Q. And you're contemplating one well?

16 A. Correct.

17 Q. It's a frac well?

18 A. It is.

19 Q. Okay. Now, in the...in the Middle Ridge,
20 it would be...this is a standard size unit of 58.7 acres?

21 A. It is. Yes it is.

22 Q. And you would...you are seeking to develop
23 from the Jawbone Seam on down if the Jawbone Seam is below
24

1 drainage, correct?

2 A. We are.

3 Q. Do you know if in this particular unit that

4 the Jawbone is below drainage or not?

5 A. I don't have that with me.

6 Q. Okay. But if it is, that's where you're

7 starting, if it's not, it's the seam below?

8 A. Actually, what's 500 feet below drainage.

9 So, you know, the Jawbone may not be 500 feet below drainage.

10 Q. Okay. Okay. But in any event, you're

11 seeking to pool and produce from the seams 500 feet below

12 drainage, which may or may not include the Jawbone Seam in

13 this unit?

14 A. That's...that's correct.

15 Q. And that would be consistent with the Middle

16 Ridge I Field Rules?

17 A. That's correct.

18 Q. Okay. And obviously you've leased, you

19 know, over 99% of this unit. Would you share with the Board

20 the lease terms that you have been offering to the people

21 that you've been able to lease from?

22 A. Yes. Our standard coalbed methane lease is

23 a \$1 per acre per year with a five year paid up term with a

24

1 1/8 royalty bonus.

2 Q. Okay, are there any amendments required
3 other than Exhibit C to fix the math error and to properly
4 identify the field as Middle Ridge on Exhibit A?

5 A. Not to my knowledge.

6 Q. Okay. Is it your recommendation to the
7 Board that they approve this pooling application, and the
8 development contemplated thereby, as a reasonable way to
9 develop coalbed methane under this unit?

10 A. Yes, it is.

11 Q. And is it your opinion that this plan of
12 development will allow all owners and claimants to be
13 protected?

14 A. Yes, it is.

15 Q. And along those lines, is escrow required
16 here?

17 A. Yes, it is.

18 Q. Okay. And would that be the escrow
19 requirement as set forth or described in Exhibit E and
20 apparently it pertains only to tract 2, correct?

21 A. That's correct.

22 Q. Okay. So, you're recommending to the Board
23 that an escrow account be established with a sub...for this

24

--

1 unit with a sub account for tract 2?

2 A. Yes.

3 Q. That's all I have.

4 BENNY WAMPLER: When you drilled the well in
5 January and it has been producing since when?

6 LESLIE K. ARRINGTON: We drilled the well and it's
7 completed. To tell you that it's producing, I can't. I
8 don't have that information with me.

9 BENNY WAMPLER: If it were producing, what would be
10 happening to the funds?

11 LESLIE K. ARRINGTON: That money would be suspended
12 pending whatever we come up with here, whatever the Board
13 orders and filed and then that money will be put into the
14 escrow account.

15 BOB WILSON: Mr. Chairman.

16 BENNY WAMPLER: Mr. Wilson?

17 BOB WILSON: That well has been producing since
18 March of this year.

19 BENNY WAMPLER: March. Any questions from members
20 of the Board?

21 MASON BRENT: I have one question, Mr. Chairman.

22 BENNY WAMPLER: Mr. Brent.

23 MASON BRENT: You say that money is being
24

1 suspended. What does that mean?

2 LESLIE K. ARRINGTON: Well, what we do until the
3 orders are issued...and one thing you have to remember over
4 in this area where we're working at, we initially drill these
5 wells on statewide spacing and that's why we're here. We're
6 getting our units...I hope...I think this is my last unit to
7 set up. And what we're doing right now is holding that money
8 until we can get all of our accounts proper and get the money
9 into proper places.

10 MASON BRENT: So, you just have your own internal
11 escrow so to speak?

12 LESLIE K. ARRINGTON: We do.

13 CLYDE KING: If we don't know if it's producing,
14 the money is where?

15 MAX LEWIS: It's in the---.

16 MARK SWARTZ: Well, the accounting system is set up
17 to track royalty money. I mean, it's just a standard
18 feature of the Conoco...anybody's royalty accounting system
19 that if you can pay a check, you put it into a suspense
20 account. So...I mean, there is a...there is a specific
21 accounting entry on the books...you know, if LIM was doing
22 was doing this for the BPC side, it would be the same.
23 Conoco, I know has a suspense account and not just for

24

--

1 coalbed methane but for anything. It's in that...it's
2 suspended on their accounting records in an account. Now, is
3 it segregated in some particular way, no. I mean, the only
4 escrow accounts in this state are the escrow agent. But, you
5 know, it's not something that will be done specifically from
6 an accounting for these well. It's done all over the
7 country.

8 Now, I would point out because this is important,
9 you know, we drilled a bunch of wells here under statewide
10 spacing, which, you know, would have paid a small circle.
11 So, these wells pre-existed...were permitted...were drilled
12 and pre-existed the orders and I think...I'm not sure that
13 this is the last one but it may be.

14 LESLIE K. ARRINGTON: We hope.

15 MARK SWARTZ: We hope. Okay, that we need to get
16 organized into the 58.7 unit. So, that's why they've been
17 producing for...and some of them have been producing since
18 before March, is my recollection---.

19 LESLIE K. ARRINGTON: They were.

20 MARK SWARTZ: ---you know, under...that we drilled
21 under statewide spacing. So, that's...it's a little unusual
22 here that we've got money that, in theory, was due to a
23 different group of people under statewide spacing that is now
24

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1 due under Middle Ridge, but when the Board entered the Middle
2 Ridge order, it sucked all those units in. So, you know, the
3 accounting...at least we're operating under the assumption
4 that the accounting is going to be on the square units as
5 opposed to the circle units because those wells were taken
6 into the field when it was established. So, I mean, I think
7 that's where we are.

8 MASON BRENT: Do monies in these suspense accounts
9 accrue interest?

10 LESLIE K. ARRINGTON: Not to my knowledge.

11 MARK SWARTZ: Only if it's our fault. I mean,
12 we...we just sent a check to Mr. Wilson recently on...you
13 know, we had been holding some money that we had no...well,
14 we asked Conoco why have you not been paying this and we got,
15 you know, no explanation. They just had no explanation. And
16 we imputed interest at 8% and are paying it in.

17 BOB WILSON: Excuse me, Mr. Chairman. Let me
18 clarify that. He did not send Mr. Wilson a check.

19 (Everyone laughs.)

20 MARK SWARTZ: Well, Mr. Wilson's office.

21 BENNY WAMPLER: (Inaudible).

22 MARK SWARTZ: Well, we have...he did indicate that
23 he wanted to put money with us at 8% because he felt it was a

24

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1 pretty good return. But we have a history of imputing
2 interest when we have held money when we have made a mistake
3 as opposed to holding it for some appropriate purpose. Here,
4 our view is that this is an administrative point that is not
5 somehow our fault. And, in fact, we sort feel like we
6 proactively, you know, created rules when didn't have to,
7 which is protecting more people. So, my guess is we're not
8 going to be imputing interest to these funds because the
9 reason was not some, you know, error mistake or culpable act
10 on our part. But we have a history of...I mean, we've paid,
11 you know...on non...we haven't pooled, we have paid interest
12 to the lessor when we've, you know, mistakenly held their
13 funds and we've done it with the Board here as well.
14 So...but in this particular instance, we do not anticipate
15 paying interest and in general, the suspense account does not
16 accrue interest period. It's not a functioning accounting
17 system. When it comes out of suspense, we make a decision or
18 are told to make a decision with regard to escrow...interest,
19 I mean.

20 BENNY WAMPLER: Any other questions?

21 (No audible response.)

22 BENNY WAMPLER: Do you have anything further?

23 MARK SWARTZ: Not on this one.

24

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1 BENNY WAMPLER: Is there a motion?

2 MAX LEWIS: I make a motion that we approve.

3 BENNY WAMPLER: A motion to approve. Is there a
4 second?

5 CLYDE KING: Second.

6 BENNY WAMPLER: Motion and second. Any further
7 discussions?

8 (No audible response.)

9 BENNY WAMPLER: All in favor, signify by saying
10 yes.

11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. I have a
15 request...Mr. Swartz requested we combine 7, 8 and 9 on the
16 agenda. Unless there's an objection, I'll proceed to do
17 that. If any of the folks there are here...are any of you
18 here for any of these three that we're combining? Does that
19 present a problem? Do you have any problem combining these?

20 (No audible response.)

21 BENNY WAMPLER: Okay, they're saying they do not
22 have a problem combining them. I'll go ahead and call them
23 and then those of you that are here for these may come
24

1 forward when I call these. That will be docket number VGOB-
2 01-09/18-0921. These are all for pooling of coalbed methane
3 units. This one I just called is DD-28. For R-36, it's
4 docket number VGOB-01-09/18-0922. For Y-26, it's docket
5 number VGOB-01-09/18-0923. We'd ask the parties that wish to
6 address the Board in this matter to come forward at this
7 time.

8 MARK SWARTZ: Mark Swartz and Les Arrington, again,
9 on behalf of Pocahontas Gas Partnership.

10 BENNY WAMPLER: If you gentlemen wish, that are
11 involved in these units, you can come forward if you want to
12 and sit at the table.

13 CLYDE KING: Do you all want to come down?

14 BENNY WAMPLER: You're welcome to if you wish, just
15 sit here and listen and ask questions.

16 (Individuals come forward.)

17 BENNY WAMPLER: Just sit right over here at the
18 table. What we do in this proceeding is we will ask the
19 operator to go forward with presentation and if you have
20 questions when they finish, we'll give you an opportunity to
21 ask those questions, okay.

22

23 LESLIE K. ARRINGTON

24

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1 having been duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Les, I'm going to remind you that you're
6 still under oath, okay.

7 A. Yes.

8 Q. You need to state your name for us, again.

9 A. Leslie K. Arrington.

10 Q. Who do you work for?

11 A. Consol Energy.

12 Q. What do you do for them?

13 A. I'm a gas engineer.

14 Q. And did you either prepare or cause to be
15 prepared the notices of hearing, applications and related
16 exhibits for these three pooling applications that we're
17 going to be talking about?

18 A. Yes, I did.

19 Q. Okay. And did you, in fact, sign the
20 notices of hearing and the applications in all three of these
21 cases?

22 A. Yes, I did.

23 Q. Okay. Is the applicant in each case
24

1 Pocahontas Gas Partnership?

2 A. Yes, it is.

3 Q. And is Pocahontas Gas Partnership is a

4 Virginia General Partnership?

5 A. Yes, it is.

6 Q. Are the two partners in that partnership

7 Consolidation Coal Company and Conoco, Inc.?

8 A. Yes, it is.

9 Q. Who is Pocahontas Gas Partnership asking the

10 Board to appoint as designated operator for these units in

11 the event that they're pooled?

12 A. Pocahontas Gas Partnership.

13 Q. Okay. Does PGP have authority to do

14 business in the Commonwealth?

15 A. Yes, it does.

16 Q. Has it registered with the Department of

17 Mines, Minerals and Energy and does it have a blanket bond on

18 file?

19 A. Yes, it does.

20 Q. Okay. Have you listed all of the

21 respondents that you're seeking to pool in the notices of

22 hearing...the first page of the notices of hearing, and again

23 on Exhibits B-3?

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1 A. Yes, we have.

2 Q. Okay. What did you do in terms of mailing
3 to the respondents and publication?

4 A. Yes. On unit number DD-28, we actually...we
5 didn't have any mailing to that one. We published that in
6 the Bluefield Daily Telegraph on August the 21st of 2001.

7 Q. Okay, why did you not have a mailing?

8 A. It was to a family cemetery that they made a
9 gas reservation which we didn't catch until later on down the
10 road.

11 Q. But you had no one identified in the
12 Courthouse records that would be the recipient of mail or
13 notices for that family cemetery, is that what you're telling
14 the Court?

15 A. That is correct.

16 Q. Okay. So, you published?

17 A. We published.

18 Q. Okay.

19 A. Unit number R-36 was mailed on August the
20 17th of 2001, and we published it in the Bluefield Daily
21 Telegraph on August the 22nd of 2001. And unit Y-26 was
22 mailed on August the 17th of 2001 by Certified Mail/Return
23 Receipt requested and published in the Bluefield Daily
24

1 Telegraph on August the 22nd of 2001.

2 Q. When you published with regard to these
3 three units, what was published in the paper?

4 A. The notice of hearing and location map.

5 Q. And have you filed information with regard
6 to publication...proof of...the certificate of publication
7 and information with regard to the mailings with regard to
8 two out of three of the units this morning with the Board?

9 A. Yes, we did.

10 Q. Okay. Are all three of these units Oakwood
11 I 80 acre units?

12 A. Yes, they are.

13 Q. And are all three of them...do all three of
14 them have plats showing that the well that's proposed, the
15 frac well that's proposed is, in fact, inside of the drilling
16 window?

17 A. It is.

18 Q. Okay. So, that with regard to these three
19 applications, there is no need for a location exception with
20 regard to any of the proposed wells, correct?

21 A. No, there is not.

22 Q. Now, in...with regard to each of these
23 applications, there is an Exhibit B-3, correct?

24

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1 A. There is.

2 Q. And that shows the names of the folks who
3 are being pooled, correct?

4 A. It does.

5 Q. And it reports for each of those people
6 under the last column to the right, their interest in the
7 unit, is that correct?

8 A. It does. Yes, it does.

9 Q. So, if they wanted to...would that be the
10 number that they would use to figure out their royalty
11 interest?

12 A. It would be.

13 Q. So, they would take whatever their interest
14 in the unit is times 12½%, correct?

15 A. Yes.

16 Q. If they want to participate, they would take
17 that percent that's reported as interest in unit times the
18 allocated cost, correct?

19 A. That's correct.

20 Q. And the same percentage would apply with
21 regard to recouping costs under a carried operator scenario?

22 A. That's right.

23 Q. Okay. Let's take these units one at a time
24

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1 and go through some of the specific information. As you
2 noted with regard to DD-28, there is...the Ellis Family
3 Cemetery is the outstanding interest, correct?

4 A. It is.

5 Q. And that's the little block identified as
6 tract 3 on the plat that's sort of at the...well, it's
7 outside the drilling window and at the top of the unit?

8 A. Yes, it is.

9 Q. Okay. In the...and that tract represents...
10 if we go to Exhibit A, page two, represents what percentage
11 ...actually, we need to look at the revised exhibits this
12 morning, right?

13 A. That's correct.

14 Q. And what percentage of the unit are you
15 seeking to pool that's represented by the family cemetery?

16 A. We're seeking to pool 0.3125% of the oil and
17 gas interest.

18 Q. Of the oil and gas claims to coalbed
19 methane?

20 A. Yes. That's correct.

21 Q. And I take it from revised Exhibit A, page
22 two, that the operator has therefore been able to lease a
23 100% of the interest and claims of coal owners to coalbed

24

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1 methane?

2 A. Yeah, that's correct.

3 Q. And 99.68750% of the oil and gas owners's

4 claims to coalbed methane?

5 A. That's correct.

6 Q. Okay. There is an amendment Exhibit C, or

7 revised Exhibit C, attached to the documents that were filed

8 today?

9 A. Yes, there is. If you notice that Exhibit

10 C, the original Exhibit C, would have been \$216,356.49 and

11 you'll notice the revised one is \$211,356.49. Again, we had

12 a mathematical error in this group.

13 Q. Okay. Has this well been drilled?

14 A. Yes, it has. It was drilled on August the

15 16th of 2000, to a total depth of 2,337 feet...2,337.60 feet.

16 Q. Okay, and it was drilled actually 2001,

17 correct?

18 A. No, 2000.

19 Q. Okay, there's a mistake here?

20 A. I believe it was 2000.

21 Q. Okay. So, it should...the exhibit

22 should---?

23 A. I believe it is 2000.

24

1 Q. Okay. So, your testimony today is it was
2 August of 2000?

3 A. Yes, I believe it is.

4 Q. Okay. And the permit number that was
5 drilled under?

6 A. Yes. The permit number it was drilled under
7 was 4544.

8 Q. Okay.

9 BENNY WAMPLER: Now, the AFE that you gave us is
10 not signed or dated.

11 LESLIE K. ARRINGTON: I just noticed that. I'll
12 sign it.

13 BENNY WAMPLER: When you correct the date drilled,
14 you will sign that.

15 Q. Also, continuing with revised exhibits
16 concerning DD-28, you've got a revised B-3, correct?

17 A. I do have.

18 Q. And the percentage was incorrectly
19 calculated on the original, right?

20 A. It was.

21 Q. Slightly less and this is the right number?

22 A. That's correct.

23 Q. Okay. You've got a revised Exhibit E and
24

1 what's different on the revised Exhibit E when you compare it
2 to the original Exhibit E?

3 A. It would be the same, the percentage number
4 that is incorrect.

5 Q. So, that one number has changed?

6 A. Yes.

7 Q. Okay. And you're recommending to the Board
8 that escrow is required here?

9 A. Yes, it is.

10 Q. With regard to what tract?

11 A. It would be tract #1.

12 Q. Okay, it's an oil and gas and coal conflict,
13 is that correct?

14 A. Uh-huh.

15 Q. And also we've got an unlocateable issue,
16 correct?

17 A. In tract #3.

18 Q. In tract #3, which needs to be escrowed as
19 well?

20 A. Uh-huh.

21 Q. And---?

22 A. Tract #4.

23 Q. Those are the tracts that need to be
24

--

1 escrowed for conflicts and in tract 3 you've got a conflict
2 and an unknown?

3 A. We do.

4 Q. Okay. And is there a royalty split
5 agreement here as well in this unit? It looks like there is.

6 A. For tract number, what is that, 4?

7 Q. Right.

8 A. Tract #4.

9 Q. So, with regard to Coal Mountain and
10 Pocahontas Gas Partnership as described in Exhibit EE, their
11 interest, they've apparently reached a split agreement and
12 there's no need to escrow their money and they can be paid
13 directly?

14 A. Yes, on a certain portion...in a portion of
15 tract #4.

16 Q. Right. And that's stated here---?

17 A. Yeah.

18 Q. ---3.098%---?

19 A. That's correct.

20 Q. ----right?

21 A. That's correct.

22 Q. Okay. And this split agreement would not
23 apply to the rest of them?

24

--

1 A. That's correct.

2 Q. Moving on to R-36 now. Okay, and let's

3 looks at the revised exhibits. Start at the back and just

4 sort of page forward. What changed with regard to the AFE?

5 A. Yes. Again, on that Exhibit C, we had an

6 error in our calculation. The DWE...AFE cost is \$203,499.90.

7 This was to be drilled to an average depth of 2,130.40 feet.

8 This unit does have two wells in it.

9 Q. Okay. And what's the reason for that?

10 A. We do have an existing mine plan within this

11 unit.

12 Q. Okay. And if I recall correctly...yeah,

13 they are both shown, but they're both...actually it turned

14 out that you are able to get them both in the drilling

15 window, correct?

16 A. Well, we did...we would have on that, but

17 not necessarily true at all times for a mine plan.

18 Q. Right. But in this, it just happened to

19 work out that even though there was a mine plan here, you

20 were able to get them in the drilling window?

21 A. That's correct.

22 Q. Okay. With regard to the interest in this

23 unit, lets look A...Exhibit A, page two.

24

1 A. Okay. Is that one---?

2 Q. This is the revised.

3 A. That's the revised ones we did yesterday?

4 Q. Right.

5 A. Okay. We just...the last thing yesterday,
6 we handed out exhibits.

7 (Leslie K. Arrington conferred with Anita Tester.)

8 A. Okay. The exhibits that we just handed out,
9 the B-3 and Exhibit A, page two, was...I mean, just as we
10 were leaving yesterday, we did get some leases in and I'd
11 like to dismiss some people in R-36 within tract #3; and
12 those people being the George Gillespie Estate, Gillespie
13 Company, the W. J. Gillespie, Jr. Trust, Grace Gillespie
14 Barnes and William A. Gillespie.

15 Q. Okay. Go through that again for us. Tract
16 3 you want to dismiss?

17 A. Yes. George Gillespie Estate, Gillespie
18 Company, the W. J. Gillespie, Jr. Trust, Grace Gillespie
19 Barnes and William A. Gillespie.

20 Q. And the reason that you want to dismiss
21 those folks is between filing the applications, preparing
22 these revised exhibits and last night, or today, you've been
23 able to lease some more folks?

24

--

1 A. Yes. They were...yes.

2 Q. Okay. And...or at least it was brought to
3 your attention they've been able to---?

4 A. Right.

5 Q. And are you going to then have to revise
6 Exhibit A, page two, once again---?

7 A. Yes, we will.

8 Q. ---to back out the percentages of the folks
9 that you've obtained these leases from?

10 A. Yes. And I think we provided Sandra with a
11 copy of them.

12 SANDRA RIGGS: The updated?

13 A. The updated ones, yes, this morning.

14 SANDRA RIGGS: I have it.

15 Q. Okay. And so now what would the current
16 percentages leased and the current percentages you need to
17 pool be?

18 A. Okay. The current leased interest is
19 93.36461% of the coal, oil and gas interest. We're seeking
20 to pool 6.63539% of the coal, oil and gas coalbed methane
21 interest. And underneath that unit, we have a 100% of the
22 coal leased.

23 Q. That unit being R-36?

24

1 A. Yes.

2 SANDRA RIGGS: According to the revised Exhibit A,
3 page two, 100% isn't shown as leased on the coal.

4 MARK SWARTZ: Right. You've got 93---.

5 A. Okay. The coal leased, not coalbed methane.
6 And we have 93.36461% of the coal, oil and gas coalbed
7 methane interest leased.

8 Q. Okay. Let me just...I'm going to restate
9 what I think you said and you need to argue with me if I got
10 it wrong, okay. You have a coal lease of a 100% of the coal
11 allowing one of your affiliates to mine the coal?

12 A. We do.

13 Q. With regard to the claims of coal owners and
14 oil and gas owners, you've been able to lease 93.36461% of
15 those people collectively?

16 A. That's correct.

17 Q. And you're seeking to pool both on the oil
18 and gas CBM claim side and on the coal CBM claim side
19 6.63539% of the outstanding interest you haven't been able to
20 lease?

21 A. That's correct.

22 Q. Okay. And you're going to provide a revised
23 Exhibit B-3 if you haven't already?

24

1 A. We have done so this morning.

2 Q. Okay. Okay. So, she's got the right folks
3 in terms of the B-3 that she needs to attach to the order?

4 A. That's correct.

5 Q. Do we need to make any other revisions or
6 call any other revisions to the attention of the Board with
7 regard to R-36?

8 A. Yes. The only other revision as he pointed
9 out a minute ago, we failed to sign the well costs.

10 Q. And you can probably do that before you
11 leave?

12 A. Yes.

13 Q. All right. Moving on then to the unit Y-26,
14 okay? It looks like there are no revised exhibits today
15 concerning Y-26, correct?

16 A. We...let me get to that. Again, I had the
17 same mathematical error in this well cost.

18 Q. Okay.

19 A. I'll just go ahead and go over that.

20 Q. Okay, go ahead and do that.

21 A. The original estimate was \$212,475.85. And
22 again, for some reason we had a mathematical error of \$5,000.
23 So the cost is \$207,475.85. It was drilled to a total depth
24

1 of 2,274.30 feet, drilled December 29 of 2000.

2 Q. And the permit number?

3 A. Permit number is 4755.

4 Q. Okay. Any other revisions required with
5 regard to Y-26?

6 A. Not to my knowledge.

7 Q. Okay. Let's look at A page 2 concerning Y-
8 26 and tell the Board what you've been able to lease and what
9 you're seeking to pool?

10 A. Yes, we have leased 96.5321% of the coal,
11 oil and gas coalbed methane interest. We're seeking to pool
12 3.46786% of the coal, oil and gas (inaudible) interest.
13 Beneath this unit, we have 100% of the coal leased.

14 Q. And again, with regard to Exhibit B-3 here
15 you've got a percent of unit column.

16 A. Yes, we do.

17 Q. And with regard to every person identified
18 as a respondent, you're setting forth their percentage of the
19 unit?

20 A. Yes, we have.

21 Q. And they can use that to figure out what
22 their percentage of the royalty would be by multiplying that
23 percentage times twelve and a half, correct?

24

--

1 A. Yes.

2 Q. Or if they want to participate, multiplying
3 that percentage times the well cost less the \$5,000 error?

4 A. That's correct.

5 Q. But that would be their contribution,
6 correct?

7 A. That's correct.

8 Q. What lease terms have you been offering to
9 the folks that you've been able to lease in these three
10 units?

11 A. Yes. It's a \$1 per acre per year, with a 5
12 year paid up term on a rental basis, and a 1/8 royalty.

13 Q. So the folks...the majority of the folks
14 that you've been able to lease have been on those terms?

15 A. Yes, it has.

16 Q. And would you recommend those terms to the
17 Board for inclusion in any order they might enter with regard
18 to people who are deemed to have been leased?

19 A. Yes, we would.

20 Q. These units are, as we stated at the
21 beginning, Oakwood I 80 acre units, correct?

22 A. Yes, they are.

23 Q. And you're seeking to produce from the
24

1 Tiller on down?

2 A. Yes, we are.

3 Q. Would you...is it your recommendation to the
4 Board that they approve these three applications for pooling
5 to allow the development that is depicted in the pooling
6 applications to proceed?

7 A. Yes, it is.

8 Q. And is it your opinion that the development
9 that's proposed and disclosed by these three applications is
10 a reasonable way to produce this methane and protect the
11 correlative rights of all owners and claimants?

12 A. Yes, it is.

13 Q. We've covered now...with regard to Y-26,
14 where do we stand on escrow? We've got an Exhibit E,
15 correct?

16 A. We do.

17 Q. And it looks like we have conflicts in
18 tracts 1-A, 1-B, 1-C, 1-D, 1-E and 1-F, is that correct?

19 A. That's correct.

20 Q. And we've got a split agreement which is
21 described in Exhibit EE, correct?

22 A. We do.

23 Q. And that pertains to tract three and
24

1 involves the Hugh MacCrae Land Trust and Consolidation Coal
2 Company, is that correct?

3 A. That's correct.

4 Q. So, with regard to those two owners, there
5 is not an escrow requirement. It can be paid directly?

6 A. That's correct.

7 Q. That's all I have with regard to these three
8 applications.

9 BENNY WAMPLER: Do you gentlemen have anything you
10 want to say to the Board at this time before the Board asks
11 questions? Any questions or anything that's not been
12 answered here?

13 FERRELL MUTTER: Where does the interest go for
14 that escrow money?

15 BENNY WAMPLER: If you will, state your name for
16 the record just so we have---.

17 FERRELL MUTTER: Ferrell Mutter.

18 BENNY WAMPLER: The interest is maintained in the
19 escrow. The bank pays it and the interest, of course, as the
20 bank changes interest rates, it continues to be paid back
21 into escrow and it's maintained until such time as it's paid
22 out.

23 FERRELL MUTTER: Well, how do you go about...about
24

1 getting it?

2 BENNY WAMPLER: Getting the money out?

3 FERRELL MUTTER: Yes.

4 BENNY WAMPLER: Well, if you have...if there's an
5 agreement among the parties, we just disburse under what...
6 five tracts this morning, money that will actually be able to
7 be paid out to the individuals that came to agreements.
8 Which tract are you in?

9 MARK SWARTZ: He's in tract 4, Y-26.

10 FERRELL MUTTER: Hugh McCrae, they say that they...
11 they want half is the reason we can't get it. I have called
12 Jill Harris, I understand she's their attorney. She is...I
13 can't get no response back from her. I'd say I'd rather have
14 half as nothing. I can't get nothing. She don't respond
15 back. She was supposed to call me back.

16 WILLIAM MUTTER: That's on a different---.

17 SANDRA RIGGS: It doesn't appear that tract 4 is
18 in being escrowed. It's a fee tract. Your money won't be
19 escrowed in that unit.

20 MARK SWARTZ: It's 1-D.

21 WILLIAM MUTTER: On this one, you won't be
22 escrowed.

23 FERRELL MUTTER: Oh, okay. Okay.

24

--

1 MARK SWARTZ: The one that's escrowed looks like
2 1-D.

3 LESLIE K. ARRINGTON: Yes. There was a little
4 confusion. That's what happened here. They actually ended
5 up having a fee tract. That's the tract---.

6 SANDRA RIGGS: Tract 4.

7 LESLIE K. ARRINGTON: Tract 4. That's what we're
8 pooling.

9 SANDRA RIGGS: That you'll get paid on.

10 LESLIE K. ARRINGTON: The tract that he's
11 interested in about the escrow, those tracts we have leased;
12 and he is correct, it is...it will be escrow money on those
13 tracts with Hugh McCrae. But the tract that we're pooling
14 here today is a fee tract. Of course, he'll be paid for
15 those tracts...that tract.

16 FERRELL MUTTER: Okay, then, I'm sorry.

17 CLYDE KING: If that be true, you don't...he
18 doesn't need an attorney, does he?

19 MARK SWARTZ: Well, he's got a conflict with Hugh
20 McCrae.

21 LESLIE K. ARRINGTON: Hugh McCrae.

22 CLYDE KING: Oh.

23 MARK SWARTZ: And he's, you know...and I assume
24

1 Jill Harrison represents them. I have no reason to question
2 that. But you need to stay on her to get her to call
3 you...you know, I don't know...I do not know what Hugh
4 McCrae's tract record on split agreements has been, if any.
5 LESLIE K. ARRINGTON: They have been doing some.
6 SANDRA RIGGS: Yes.
7 LESLIE K. ARRINGTON: I mean, we've been here
8 before the Board.
9 MARK SWARTZ: Okay. Okay. So, if you stay after
10 her, she ought to---.
11 LESLIE K. ARRINGTON: Do both of you gentleman know
12 Scott Hodges?
13 FERRELL MUTTER: No, I don't.
14 LESLIE K. ARRINGTON: Either one of you know Scott?
15 (No audible response.)
16 LESLIE K. ARRINGTON: If you will both just give me
17 your phone numbers, I'll give that to Scott and maybe Scott
18 there at our office can help you deal with her.
19 MARK SWARTZ: Deal with her.
20 FERRELL MUTTER: Okay.
21 LESLIE K. ARRINGTON: Or deal with McCrae.
22 (Mark Swartz and Leslie K. Arrington confer with
23 Ferrell Mutter and William Mutter to get their phone numbers
24

1 and some information from them and explain how to do the
2 split agreement.)

3 BENNY WAMPLER: Did you all have any other
4 questions?

5 FERRELL MUTTER: No, that's it.

6 WILLIAM MUTTER: No.

7 BENNY WAMPLER: Any questions from members of the
8 Board on these applications?

9 (No audible response.)

10 CLYDE KING: You're in agreement with what was said
11 today?

12 FERRELL MUTTER & WILLIAM MUTTER: Yes.

13 CLYDE KING: I move to approve them.

14 BENNY WAMPLER: I have a motion to approve. Is
15 there a second?

16 MAX LEWIS: I second it.

17 BENNY WAMPLER: A motion and second. Any further
18 discussion?

19 (No audible response.)

20 BENNY WAMPLER: All in favor, signify by saying
21 yes.

22 (All members signify by saying yes.)

23 BENNY WAMPLER: Opposed, say no.

24

1 (No audible response.)

2 BENNY WAMPLER: You have approval. Thank you very
3 much.

4 (Mark Swartz confers with the Mutters again and
5 gives them his phone number.)

6 (Board members confer among themselves.)

7 JIM KISER: If they want to go ahead with their
8 thing, they can.

9 MARK SWARTZ: Could I pull a Kiser and ask that my
10 last one be moved up in front of his stuff?

11 SANDRA RIGGS: He has done volunteered.

12 MARK SWARTZ: Awesome, man. Awesome.

13 JIM KISER: I tell you what, we will be asking big
14 next month.

15 MARK SWARTZ: No way. You're toast, man. You
16 should have got there earlier.

17 CLYDE KING: We need to record that that happened
18 at fifteen minutes after 10:00.

19 BENNY WAMPLER: Does the Board want a break at this
20 point? Does anybody want a break or keep going?

21 MASON BRENT: It doesn't matter to me.

22 MAX LEWIS: It doesn't matter to me.

23 BENNY WAMPLER: Let's take five.

24

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1 (Break.)

2 BENNY WAMPLER: Okay, we'll reconvene. The next
3 item on the agenda is a petition from Equitable...oh, we're
4 going to skip. I'm sorry. The next item on the agenda is a
5 petition from Buchanan Production Company for a combination
6 of drilling unit allowables within the sealed gob area of the
7 Beatrice Mine, units R-16 and R-19, docket number VGOB-01-
8 09/18-0927. We'd ask the parties that wish to address the
9 Board in this matter come forward at this time.

10 MARK SWARTZ: Mark Swartz and Les Arrington.

11

12 LESLIE K. ARRINGTON

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Les, who do you work for?

16 A. Consol Energy.

17 Q. And at this time, you are here with
18 your...Consol Energy had on by reason of Buchanan Production
19 Company's delegation of authority to Consol Energy, right?

20 A. That's correct.

21 Q. Not that you need to deal with this issue
22 today, but we thought we would bring to the attention of the
23 Board that the new partners in Buchanan Production Company

24

--

1 are capital letter C, Charles, N, Nellie, X, x-ray, Gas,
2 L.L.C. and Consol Energy, Inc., is that correct?

3 A. That's correct.

4 Q. And as far as you and I have been able to
5 tell, that is effective at the tail end of June of this year?

6 A. It was.

7 Q. Okay. Just for future reference, we just
8 thought we would let you know that. What we are seeking to
9 do here today is to combine the allowables with regard to two
10 units...two Oakwood units or portions of units that are
11 within this sealed gob area of the Beatrice Mine, correct?

12 A. That's correct.

13 Q. And both of these units, specifically R-16
14 and R-19, are voluntary units and have not been pooled,
15 correct?

16 A. That's correct.

17 Q. So, all we're here for is just to combine
18 and stack the allowables. You've given the Board members a
19 map this morning, have you not?

20 A. Yes, I have.

21 Q. Okay. And R-19 is the orange square on the
22 map?

23 A. It is.

24

--

1 Q. Is the map they've got colored as well?
2 A. It is.
3 Q. Okay.
4 A. It's---.
5 Q. And that's an entire 80 acre unit within the
6 mine area?
7 A. Yes, it is.
8 Q. And R-16 is the...I don't know what color
9 that is.
10 A. It's...it's...actually it's a stripped
11 orange.
12 Q. Okay.
13 A. I tried to make those just a little
14 different so you could tell.
15 Q. And it's at the very left edge of the sealed
16 gob area, correct?
17 A. It is.
18 Q. And it is, in fact, not entirely within the
19 sealed gob?
20 A. That's correct, it was not.
21 Q. So, you've taken the acreage and calculated
22 the percentage of that 80 acre unit and applied that to the
23 350 allowable, correct?

24

--

1 A. We did.

2 Q. Okay. And so is it true then that all you
3 are asking the Board to do here is to allow you to combine a
4 part of the allowable, the .35 BCF allowable, with regard to
5 R-16 and a 100% of the allowable with regard to R-19 to allow
6 you to produce out of the 16 unit a total of 686 MMCF, right?

7 A. I have, yes.

8 MARK SWARTZ: Okay. That's all I have.

9 BENNY WAMPLER: Any questions from members of the
10 Board?

11 MASON BRENT: Just one clarification. The
12 686,000,000 cubic feet is for both 19...16 and 19?

13 LESLIE K. ARRINGTON: That's for the total. Yes,
14 it is.

15 BENNY WAMPLER: Mr. Wilson, do you have any
16 concerns of the request?

17 BOB WILSON: No, sir.

18 BENNY WAMPLER: Any other questions from members of
19 the Board?

20 (No audible response.)

21 BENNY WAMPLER: Is there a motion for approval?

22 MASON BRENT: I move that we approve the
23 application, Mr. Chairman.

24

1 BENNY WAMPLER: Is there a second?

2 CLYDE KING: Second.

3 BENNY WAMPLER: Motion and second. Any further

4 discussion?

5 (No audible response.)

6 BENNY WAMPLER: All in favor, signify by saying

7 yes.

8 (All members signify by saying yes.)

9 BENNY WAMPLER: Opposed, say no.

10 (No audible response.)

11 BENNY WAMPLER: You have approval. Thank you.

12 MARK SWARTZ: Thank you.

13 BENNY WAMPLER: Les, are you going to be able

14 to---?

15 MARK SWARTZ: Yeah, we're going to hang around.

16 LESLIE K. ARRINGTON: Uh-huh.

17 BENNY WAMPLER: The next item on the agenda is a

18 petition from Equitable Production Company for a well

19 location exception for a conventional gas unit identified as

20 V-505027. This is docket number VGOB-01-09/18-0924. We'd

21 ask the parties that wish to address the Board in this matter

22 to come forward at this time.

23 JIM KISER: Mr. Chairman and members of the Board,

24

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1 Jim Kiser on behalf of Equitable Production Company. Our
2 witness in this matter will be Mr. Don Hall.

3 (Witness is duly sworn.)

4 BENNY WAMPLER: The record will show there are no
5 others. You may proceed.

6

7 DON HALL

8 having been duly sworn, was examined and testified as
9 follows:

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. KISER:

12 Q. Mr. Hall, if you'd state your name for the
13 record, who you're employed by and in what capacity?

14 A. My name's Don Hall. I'm with Equitable
15 Production Company as District Landman.

16 Q. And your qualifications as an expert witness
17 in land matters and matters involving both location
18 exceptions and force poolings...you've testified many times
19 before the Board over the past ten years?

20 A. Yes.

21 Q. And do your responsibilities include the
22 land involved here and in the surrounding area?

23 A. They do.

24

--

1 Q. And are you familiar with the application we
2 filed seeking a location exception for well number V-505027?

3 A. Yes.

4 Q. Have all interested parties been notified as
5 required by Section B of the Virginia Gas and Oil Board
6 regulations?

7 A. They have.

8 Q. Now, at this time would you indicate to the
9 Board the ownership of the oil and gas underlying the unit
10 for well V-505027?

11 A. We have leased 98.84% of the gas in the
12 unit.

13 Q. No, I was asking you on the location
14 exception to identify what the percentage of ownership within
15 the unit was.

16 A. Okay. We have 27.78% Morgan Bolling, Penn
17 Virginia, oil and gas a 71.016% and then there's J. E.
18 England 1.16%.

19 Q. Okay. And does Equitable have the right to
20 operate all the reciprocal of which there are three, being V-
21 4285, V-4198 and V-3832?

22 A. We do.

23 Q. And are there any correlative rights issues
24

1 that we need to address?

2 A. There is none.

3 Q. Now, in this particular instance, we did
4 not...we'd ask that the Board turn to the Exhibit A in their
5 application which would be the well plat, and we did not
6 prepare a separate exhibit for this particular hearing in
7 this case because what we would have prepared would have been
8 the same as the well plats. Taking the well plat, if
9 everybody has had a chance to turn to it, could you explain
10 to the Board why we're seeking this exception?

11 A. We're...we have a well to the North, the
12 East and the South that are all less than 2500 feet and we
13 have the Kentucky state line to the West that restricts us in
14 that direction and this is the only place that we can put
15 on...there's an area there we need to put a location and we
16 can't get a legal location from those other three wells.

17 Q. And in the event the location exception were
18 not granted, would you project the estimated loss of
19 reserves?

20 A. 11...1128 million cubic feet.

21 Q. And what is the total depth of the proposed
22 well under the plan of development?

23 A. 4953 feet.

24

--

1 Q. And this would be sufficient to penetrate
2 and test the common sources as supplied in the subject
3 formations?

4 A. It would.

5 Q. It would be consistent with the well work
6 permit that has either been issued or pending before the DGO?

7 A. Which is pending, yes.

8 Q. Okay. And are you requesting that this
9 location exception cover conventional gas reserves to include
10 the designated formations from the surface to the total depth
11 drilled?

12 A. Yes, we are.

13 Q. And in your professional opinion, will the
14 granting of this location exception be in the best interest
15 of preventing waste, protection of correlative rights and
16 maximizing the recovery of the gas reserves underlying the
17 unit area for V-505027?

18 A. Yes, sir.

19 JIM KISER: Nothing further of this witness at this
20 time, Mr. Chairman.

21 BENNY WAMPLER: Any questions from members of the
22 Board?

23 CLYDE KING: I have a question, Mr. Chairman.

24

--

1 BENNY WAMPLER: Mr. King?

2 CLYDE KING: How far are we from the state line

3 there?

4 DON HALL: It looks about maybe 300 feet.

5 CLYDE KING: Is that a conflict at all with

6 (inaudible)?

7 DON HALL: No.

8 JIM KISER: No, we've done this. We've cut units

9 off at the state line on several other occasions both

10 conventional and CBM.

11 BOB WILSON: I might interject just for reference.

12 We are operating under a very informal agreement with the

13 State of Kentucky. When we get applications in that show

14 wells that our units would fall partially in Kentucky, I send

15 the plat and the well information to Kentucky. They do the

16 same thing for us for any wells that fall near the state

17 line. The reason for constructing the plat like this is that

18 in Virginia, we have no authority for enforcing anything on

19 the Kentucky side. Our rules don't apply there. They have

20 different rules for spacing and production allowables and

21 that sort of thing. But we do have an informal agreement to

22 swap these plats just for information purposes.

23 JIM KISER: It's a jurisdictional issue.

24

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1 BENNY WAMPLER: Any other questions?
2 MASON BRENT: Just a follow up on that.
3 BENNY WAMPLER: Mr. Brent?
4 MASON BRENT: What precludes you from going into
5 Kentucky to establish that well?
6 DON HALL: Pardon?
7 MASON BRENT: Why can't you move...why can't you go
8 into Kentucky to---?
9 DON HALL: We have wells in Kentucky that are close
10 also. But since this was only for Virginia, we didn't show
11 those.
12 JIM KISER: Let me stress again, there are no
13 correlative rights issues, correct?
14 DON HALL: That's correct.
15 CLYDE KING: I move that we approve.
16 BENNY WAMPLER: We have a motion to approve. Is
17 there a second?
18 MASON BRENT: I second.
19 BENNY WAMPLER: Second. Any further discussion?
20 (No audible response.)
21 BENNY WAMPLER: All in favor, signify by saying
22 yes.
23 (All members signify by saying yes.)
24

1 BENNY WAMPLER: Opposed, say no.

2 (No audible response.)

3 BENNY WAMPLER: You have approval. The next item
4 on the agenda is a petition from Equitable Production Company
5 for pooling of a conventional gas unit identified as V-
6 505027. This is docket number VGOB-01-09/18-0925. We'd ask
7 the parties that wish to address the Board in this matter to
8 come forward at this time.

9 JIM KISER: Mr. Chairman and members of the Board,
10 Jim Kiser again on behalf of Equitable Production Company.
11 Our witness in this matter will again be Mr. Hall.
12 Obviously, what you see here is now a force pooling of the
13 same well that we just sought a location exception for. We
14 have all of it leased except for a very small percentage of
15 the unit that is owned by the unknown heirs of J. E. England,
16 Jr., who we have forced pooled on at least two other
17 occasions over the years. We've attempted during this time
18 to come up with who those unknown heirs might be and have
19 been unable to do so.

20

21

22 JIM KISER

23 DIRECT EXAMINATION

24

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1 QUESTIONS BY MR. KISER:

2 Q. So, Mr. Hall, if you'd again state your name
3 for the record, who you're employed by and in what capacity?

4 A. Don Hall. I'm employed by Equitable
5 Production Company as District Landman.

6 Q. And you're familiar with Equitable's
7 application for the establishment of a drilling unit and
8 seeking a pooling of an unknown interest for EPC well number
9 V-505027 which was dated August the 17th, 2001?

10 A. Yes.

11 Q. Does Equitable own drilling rights in the
12 unit involved here?

13 A. We do.

14 Q. Now, prior to filing the application, as I
15 just stated, did you again attempt to locate these unknown
16 heirs of J. E. England that represent the only unleased
17 portion...only unleased interest within this unit?

18 A. Yes, we have. We have for several years
19 tried to locate them.

20 Q. And what is the interest that Equitable has
21 leased within the unit?

22 A. We have 98.84% leased in the unit.

23 Q. And you're familiar with the ownership of
24

--

1 drilling rights of parties other than Equitable underlying
2 this unit, once again being the interest of the unknown J. E.
3 England, Jr. heirs being 1.16% of the unit?

4 A. That's correct.

5 Q. And that is set out as such in Exhibit B?

6 A. That's correct.

7 Q. And you've testified that you've been
8 making...we've pooled the J. E. England, Jr. unknown interest
9 previously, correct?

10 A. Yes.

11 Q. And since that time you've continued to try
12 to make reasonable and diligent efforts to identify and
13 locate these unknown heirs?

14 A. Yes.

15 Q. That's your professional opinion?

16 A. Yes.

17 Q. Now, are the addresses set out in Exhibit B
18 to the application the last known addresses for the
19 respondents?

20 A. They are.

21 Q. Are you requesting this Board to force all
22 the unleased interest as listed at Exhibit B?

23 A. We are.

24

--

1 Q. Now, are you familiar with the fair market
2 value of drilling rights here and in the surrounding area?

3 A. Yes.

4 Q. Could you advise the Board as to what those
5 are?

6 A. \$5 year bonus, a five year term and a 1/8
7 royalty.

8 Q. Did you gain your familiarity by acquiring
9 oil and gas leases and other agreements involving the
10 transfer of drilling rights in the unit involved here and in
11 the surrounding area?

12 A. Yes.

13 Q. In your professional opinion, do the terms
14 you have testified to represent the fair market value of and
15 the fair and reasonable compensation to be paid for drilling
16 rights within this unit?

17 A. They do.

18 Q. Okay, do you recommend that should we ever
19 locate any of these unknown heirs, that they be allowed their
20 three election options under 361.21 of the statute, that
21 being: Participation; a cash bonus of \$5 per net mineral
22 acre plus a 1/8 of 8/8 royalty; or to be a carried interest?

23 A. I do.

24

--

1 Q. Do you recommend that the order provide that
2 elections by the respondents be in writing and sent to the
3 applicant at Equitable Production Company, 1710 Pennsylvania
4 Avenue, Charleston, West Virginia, zip code, 25328,
5 Attention: Melanie Freeman?

6 A. Yes.

7 Q. And should this be the address for all
8 communications with the applicant concerning any force
9 pooling order?

10 A. It should be.

11 Q. Now, does the Board need to establish an
12 escrow account into which the...any proceeds attributable to
13 the unknown interest that we're seeking to pool be paid?

14 A. Yes.

15 Q. And who should be named the operator under
16 any force pooling order?

17 A. Equitable Production

18 Q. Now, are you familiar with the total depth
19 of the proposed well?

20 A. Yes. It's 49,000...4953 feet.

21 Q. Are you requesting the force pooling of
22 conventional gas reserves not only to include the designated
23 formations, but any other formations excluding coal

24

--

1 formations which may be between those formations designated
2 from the surface to the total depth drilled?

3 A. Yes.

4 Q. And what are the estimated reserved of this
5 unit?

6 A. 1128 million cubic feet.

7 Q. Now, are you familiar with the well costs
8 for this proposed well?

9 A. Yes.

10 Q. And has an AFE been reviewed, signed and
11 submitted to the Board?

12 A. It has.

13 Q. Was this AFE prepared by an engineering
14 department knowledgeable in the preparation of AFEs and
15 knowledgeable in regard to well costs in this particular
16 area?

17 A. It was.

18 Q. In your opinion, does it represent a
19 reasonable estimate of the well costs under the plan of
20 development?

21 A. It does.

22 Q. Could you state for the Board in accordance
23 with Exhibit C to the application what both the dry hole
24

1 costs and completed well costs for well 505027 would be?

2 A. The dry hole costs would be \$175,962 and
3 completed well costs is \$294,252.

4 Q. Do these costs anticipate a multiple
5 completion?

6 A. They do.

7 Q. Does the AFE cover a reasonable charge for
8 supervision?

9 A. Yes, it does.

10 Q. In your professional opinion, will the
11 granting of this application be in the best interest of
12 conservation, the prevention of waste and the protection of
13 correlative rights?

14 A. Yes.

15 JIM KISER: Nothing further of this witness at this
16 time, Mr. Chairman.

17 BENNY WAMPLER: Questions from members of the
18 Board?

19 MASON BRENT: One question on your AFE. There's a
20 line item entitled fishing expense. What is that?

21 DON HALL: Pardon.

22 JIM KISER: Fishing.

23 MASON BRENT: Fishing expense is a line item on
24

1 your AFE. What is a fishing expense?

2 MAX LEWIS: They lose tools.

3 DON HALL: Max could explain that probably better

4 than I can. But if you lose tools down the hole, drilling

5 tools or something, you have to fish them out.

6 MASON BRENT: Fish them out.

7 DON HALL: Yeah.

8 BENNY WAMPLER: Is there any objection to combining

9 these two applications into one order?

10 JIM KISER: No, the one order, that would be great.

11 I'd like that.

12 BENNY WAMPLER: So, whenever the Board member makes

13 a motion, if you'll make that a combined...a location and a

14 pooling, I appreciate that. Any other questions from members

15 of the Board?

16 (No audible response.)

17 BENNY WAMPLER: Do you have anything further?

18 JIM KISER: We'd ask that the application be

19 approved as submitted, Mr. Chairman.

20 MAX LEWIS: I make a motion we approve it as

21 submitted.

22 BENNY WAMPLER: And also with your application,

23 will you agree to combine the previous---?

24

--

1 MAX LEWIS: Yeah.

2 BENNY WAMPLER: ---location exception with the
3 pooling?

4 MAX LEWIS: Uh-huh.

5 BENNY WAMPLER: Okay.

6 MASON BRENT: I second.

7 BENNY WAMPLER: Motion and second. Any further
8 discussions?

9 (No audible response.)

10 BENNY WAMPLER: All in favor, signify by saying yes?
11 (All members signify by saying yes.)

12 BENNY WAMPLER: Opposed, say no.

13 (No audible response.)

14 BENNY WAMPLER: You have approval. The
15 next item on the agenda is a petition from Equitable
16 Production Company for pooling of a coalbed methane unit
17 identified as VC-0...I'm sorry, VC-504660, docket number
18 VGOB-09/18-0926. We'd ask the parties that wish to address
19 the Board in this matter to come forward at this time.

20 JIM KISER: Mr. Chairman and members of the Board,
21 Jim Kiser again on behalf of Equitable Production Company.
22 Our witness again will be Mr. Don Hall. This...in this
23 particular well, we're once again pooling just an unknown
24

1 interest. It's a large interest in the gas estate.
2 Charles...the unknown heirs of Charles W. Grizzle. We once
3 again have pooled them on at least two previous occasions
4 over the last two or three years and have again attempted
5 through our land department to run down some of these folks.
6 And, of course, you know you always have the hope with your
7 publication notice and that sort of thing that somebody will
8 come forward to you. But once again, we haven't had any luck
9 identifying any of the unknown heirs of Charles Grizzle. So,
10 we're here again to pool this unit.

11

12

DON HALL

13

DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. So, Mr. Hall, if you'd state your name for
16 the Board, who you're employed by and in what capacity?

17 A. My name's Don Hall. I'm employed by
18 Equitable Production Company as District Landman.

19 Q. And you're familiar with Equitable's
20 application seeking the pooling of the Grizzle...the unknown
21 Grizzle interest for EPC well number VC-504660, which was
22 dated August the 17th, 2001?

23 A. Yes.

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1 Q. Is Equitable seeking to force pool the
2 drilling rights underlying the drilling unit as depicted at
3 Exhibit A, that being the plat to the application?
4 A. Yes.
5 Q. Does this location fall within the Board's
6 order for the Nora Coalbed Gas Field?
7 A. It does.
8 Q. Now, does Equitable own drilling rights in
9 the unit involved here?
10 A. We do.
11 Q. And what is the interest of Equitable within
12 the gas estate in the unit?
13 A. We have 34.23% of the gas estate leased.
14 Q. And the interest of Equitable in the coal
15 estate?
16 A. We have 100% of the coal estate leased.
17 Q. And all the unleased parties are set out in
18 Exhibit B to the application?
19 A. That's correct.
20 Q. And the unleased interest in the gas estate
21 represented by the unknown heirs of Charles Grizzle is
22 65.76%?
23 A. That's correct.
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1 Q. And you have continued to make reasonable
2 and diligent efforts to identify and locate these unknown
3 heirs?

4 A. We have.

5 Q. Now, are the addresses set out in Exhibit B
6 to the application the last known addresses for the
7 respondents?

8 A. Yes.

9 Q. Are you requesting this Board to force all
10 the unleased interest as listed at Exhibit B?

11 A. Yes.

12 Q. Again, are you familiar with the fair market
13 value of drilling rights in this unit and in the surrounding
14 area?

15 A. Yes.

16 Q. Could you advise the Board as to what those
17 are?

18 A. A \$5 bonus, a five year term and a 1/8
19 royalty.

20 Q. In your opinion, do these terms you have
21 testified to represent the fair market value of and the fair
22 and reasonable compensation to be paid for drilling rights
23 within this unit?

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1 A. They do.

2 JIM KISER: Mr. Chairman and members of the Board,
3 at this time, we'd ask that the testimony taken previously in
4 docket number 01-09/18-0925 regarding the election options
5 afforded any of these unknown heirs should they be located be
6 incorporated into this hearing?

7 BENNY WAMPLER: They'll be incorporated.

8 Q. Okay, Mr. Hall, in this particular case, we
9 have not only an unknown and unlocateable interest in the gas
10 estate, but we also have in tract 1 a conflicting claim?

11 A. That's correct.

12 Q. So, the Board needs to establish an escrow
13 account where all the proceeds and/or costs, should somebody
14 elect to participate for tract 1, be paid into?

15 A. That's correct.

16 Q. And who should be named the operator under
17 any order?

18 A. Equitable Production Company.

19 Q. And what is the total depth of the proposed
20 well under the applicant's plan of development?

21 A. 1923 feet.

22 Q. And this will be sufficient to penetrate and
23 test any common sources of supply in the subject formations?

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1 A. That's correct.

2 Q. The estimated reserves for this unit?

3 A. 400,000.

4 Q. Are you familiar...400---?

5 A. 400,000,000 cubic feet. I'm sorry.

6 Q. Are you familiar with the well costs for

7 unit well under the plan of development?

8 A. Yes.

9 Q. Has an AFE been prepared, signed and

10 submitted to the Board as Exhibit C to the application?

11 A. It has.

12 Q. Was this prepared by someone knowledgeable

13 in the preparation of AFEs and particularly knowledgeable in

14 regard to well costs in this area?

15 A. Yes.

16 Q. In your professional opinion, does it

17 represent a reasonable estimate of the well costs for the

18 well under the well under this plan of development?

19 A. It does.

20 Q. Could you state for the Board what both the

21 dry hole costs and completed well costs for 4660 are?

22 A. The dry hole costs is \$71,920 and completed

23 well costs is \$159,420.

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1 Q. Do these costs anticipate a multiple
2 completion?
3 A. They do.
4 Q. Does the AFE include a reasonable charge for
5 supervision?
6 A. Yes.
7 Q. In your professional opinion, will the
8 granting of this application be in the best interest of
9 conservation, the prevention of waste and the protection of
10 correlative rights?
11 A. Yes.
12 JIM KISER: Nothing further at this time, Mr.
13 Chairman.
14 BENNY WAMPLER: Questions from members of the
15 Board?
16 MAX LEWIS: I would like to know why this man...did
17 you do all that you claim you did to try to contact Charles
18 W. Grizzle?
19 DON HALL: Pardon?
20 MAX LEWIS: Charles W. Grizzle. Do you mean to
21 tell me you can't find him?
22 DON HALL: Yes, we've been looking for him several
23 years and we just have not got any leads at all. The guy
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1 disappeared many, many years ago.

2 BENNY WAMPLER: There's a Chester Grizzle, you may
3 have talked to him, that works at the Virginia Employment
4 Commission office in Norton. It may be worth...if you
5 haven't followed up, you may---.

6 DON HALL: We've talked to several Grizzles. I
7 don't know if he's one of them or not. We just...he just
8 disappeared.

9 JIM KISER: You'd be surprised how often this
10 happens.

11 DON HALL: Yeah, it's not uncommon at all. We're
12 working on another one right now that everywhere we go, we
13 just run into a dead end.

14 JIM KISER: What happens is they die intestate and
15 nobody, none of their heirs ever know that they had anything.
16 We've done dozens of title opinions, I'd say, where the
17 chain of title stops in the early 1900s and there's never
18 anything else.

19 BENNY WAMPLER: Any other questions from members of
20 the Board?

21 CLYDE KING: And nobody has been paying the taxes
22 on the property?

23 JIM KISER: No.

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1 MASON BRENT: This well has not yet been permitted.
2 DON HALL: It's (inaudible). The permit is
3 being---.
4 CLYDE KING: I move we approve, Mr. Chairman.
5 BENNY WAMPLER: Motion to approve. Is there a
6 second.
7 MASON BRENT: I second.
8 BENNY WAMPLER: Motion and second. Any further
9 discussions?
10 (No audible response.)
11 BENNY WAMPLER: All in favor, signify by saying yes?
12 (All members signify by saying yes, but Max Lewis.)
13 BENNY WAMPLER: Opposed, say no.
14 MAX LEWIS: No.
15 BENNY WAMPLER: We have one no. You have approval.
16 JIM KISER: It's at least the third time we've
17 pooled him.
18 BENNY WAMPLER: The...I have one other item. I
19 don't know if have anything or not, Mr. Wilson. But one
20 other thing I want to make you aware of, Members of the
21 Board, is that the Department is forming a regulatory work
22 group to review the public participation guidelines and this
23 will be public participation guidelines in all of our
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1 regulations throughout the department and the Governor has an
2 executive order that directs a periodic review of those.
3 What we'll be doing is we'll be reconvening a regulatory work
4 group because it directs the department and not the Board in
5 that case to do these things. The Board, obviously, will be
6 welcome to attend should they decide to do that. Notice was
7 published September the 10th in the Virginia Register and it
8 will run through October the 1st after which time we'll
9 convene a work group meeting. We had, in that work group,
10 we'll ask the representatives of the Virginia Coal
11 Association, Virginia Oil and Gas Association, the Nature
12 Conserves, we'll get a broad range of industry and citizen
13 representatives to that with the obvious intent of saying,
14 "is there a better way to streamline, improve clarity and
15 effectiveness of our public participation information that we
16 have in regulations." We'll also receive written comment
17 that regulatory work group will consider and then
18 bring...we'll keep this Board informed as the other Boards of
19 our department of any draft proposed final regulation before
20 we do anything to receive your comments. Did you have
21 anything?

22 BOB WILSON: Yes, sir. I would like to bring to
23 the Board's attention the fact that the November hearing, our
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1 regular date of that would be the Tuesday before
2 Thanksgiving. We have a heavy agenda next month. It's my
3 understanding from talking to the operators, we're going to
4 have a heavy agenda in November as well.

5 BENNY WAMPLER: Heavy agenda to define that as
6 about forty items.

7 BOB WILSON: There are about forty for next month,
8 yeah.

9 SANDRA RIGGS: The next two months.

10 BENNY WAMPLER: The next two months, we're talking
11 about it.

12 BOB WILSON: Yeah, the indication is that November
13 will be about the same. If we need to make any adjustments
14 in the scheduling of the November hearing around
15 Thanksgiving, we probably need to do it now because beyond a
16 point, we cannot back that date up.

17 BENNY WAMPLER: Right.

18 BOB WILSON: Just for your consideration and
19 information. I don't know if anybody wants to address that
20 now or not.

21 BENNY WAMPLER: At this point, does anyone have a
22 problem...you're say it's the week of Thanksgiving?

23 BOB WILSON: Yes. It will be Tuesday the 20th

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1 which is, of course, two days before Thanksgiving.

2 CLYDE KING: I don't have a problem with that.

3 BENNY WAMPLER: I've got to work. So---.

4 MASON BRENT: I don't have a problem. It would be

5 nice to move it to the week before.

6 BENNY WAMPLER: The week before?

7 MASON BRENT: If that doesn't create a problem for

8 anybody. If it does, then I'm fine with leaving it where it

9 is.

10 CLYDE KING: What Tuesday would that be?

11 BOB WILSON: Yeah, we would have plenty of time and

12 that's the only problem when we back it up the month before,

13 then we get back into notification problems. But if we did

14 it now, we'd have time to make sure we can secure the

15 facility and---.

16 BENNY WAMPLER: I mean, that sounds reasonable to

17 do that.

18 MAX LEWIS: It has to be advertised.

19 BENNY WAMPLER: That's reasonable.

20 JIM KISER: That would be the 13th.

21 (Board members confer among themselves.)

22 BENNY WAMPLER: I've got a conflict.

23 MASON BRENT: I mean, that's okay.

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1 CLYDE KING: I've got a conflict.
2 MASON BRENT: Okay.
3 BENNY WAMPLER: Just leave it alone for the time
4 being.
5 MASON BRENT: Sure.
6 CLYDE KING: It suits me if you want to have it.
7 MASON BRENT: We want you here.
8 SANDRA RIGGS: All forty items.
9 CLYDE KING: We've gotten kind of skinny in our
10 group, haven't we?
11 BOB WILSON: So, are we going to leave it then?
12 BENNY WAMPLER: Well, what you can...do this. Poll
13 the others. The problem we've got is, obviously, is to make
14 sure we've got a quorum. We don't want to lose that. It
15 would be nice to move it to the week before. It probably
16 would be convenient for more people. Poll them this week.
17 BOB WILSON: I'll do that.
18 BENNY WAMPLER: And we'll rely on your judgment of
19 whether or not we'll just leave it as is or whether or not we
20 can move it.
21 BOB WILSON: Sure. I'll notify everybody, of
22 course. You would not be available that week, is that
23 correct?

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1 CLYDE KING: I've got a meeting in Richmond.

2 BENNY WAMPLER: You won't have to ask us. You know

3 you've got one conflict here. The other three can go either

4 way. If you get one or two others, that will give you some

5 solid commitment then you can go (inaudible).

6 BOB WILSON: Okay.

7 MASON BRENT: Good luck.

8 JIM KISER: And you'll notify the operator

9 (inaudible), too?

10 BOB WILSON: Yes. Yes.

11 DON HALL: Because we'll have to...if we have

12 anything for November, we'll have to file it a week earlier

13 to get the notification.

14 BOB WILSON: Sure. Oh, yes, that's right. Yeah.

15 That's why we're trying to---.

16 BENNY WAMPLER: We'll let everybody know that.

17 That's why he's trying to find out right now so he can let

18 everybody know.

19 DON HALL: Thank you.

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1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, Sonya Michelle Brown, Court Reporter and Notary
4 Public for the State of Virginia, do hereby certify that the
5 foregoing hearing was recorded by me on a tape recording
6 machine and later transcribed by me personally.

7 Given under my hand and seal on this the 9th day of
8 October, 2001.

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NOTARY PUBLIC

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My commission expires: August 31, 2005.

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